IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH

AT BILASPUR

Writ Petition No. 2811 2002

PETITIONER : Prabhat Kumar Khalkho
S/o Prem Chandran Khalkho
Aged about 32 years.
R/o Village Katni, Post Sitapur,
Distt. Surguja (C.G.)

P. R. No. 24/1/02
Presented by Shri Manoj Banerjee
dated 16.12.02

VERSUS

RESPONDENTS : 1. State of Chhattisgarh
Through : Secretary Adim Jati,
Anusuchit Jati, Pichhada Warg
and Alpsankhayak Deptt.
D.K.S. Bhawan, Raipur (C.G.)
2. Commissioner, Adim Jati,
Anusuchit Jati, Pichhada Warg
and Alpsankhayak Deptt.
D.K.S. Bhawan, Raipur (C.G.)
3. Block Education officer Sitapur.
Distt. Surguja.

WRIT PETITION UNDER ARTICLE 226/227

OF CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

(21)

मामला क्रमांक W.P. No. 2811/ सन् 2002

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

22.01.2003

Shri M.V.Paranjape, counsel for thepetitioner.

Shri Ranbir Singh, G.A. for the State.

Though this matter is listed for hearing on the question of admission, on the prayer of learned counsel for the petitioner and with the consent of State counsel, the matter is being disposed of at the admission stage.

The challenge in this writ petition is to the order of transfer dated 21.11.2002 whereby the petitioner who was working as U.D.T. at Government Boys Higher Secondary School, Sitapur has been transferred in the same capacity to Dantewada and as the order discloses the Collector, Dantewada is to give him a suitable posting.

To begin with, it may be stated that transfer is an incidence of service and person who holds a transferable post cannot object to his transfer. It is within the jurisdiction of the employer to determine as to where a particular employee should or should not be posted. However, there may be some cases of transfer which may be examined by the Court and these would normally be the cases where an employee has been subjected to frequent transfers

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मामला क्रमांक ..... सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -25-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

or the transfer is by way of harassment or to accommodate a particular person by bringing him back to the place from where that person was transferred and sending out the incumbent who had joined that particular place of transfer of the previous incumbent. Interference may be justified in cases of mala fide or infraction of any proposed norms or principles. Where career prospects remain unaffected and no detriment is caused, challenge to an order of transfer ought not to be entertained. Thus the challenge to an order of transfer, in the opinion of the Court, is to be considered in the above background.

The case of the petitioner is that his wife is also a Government servant employed as an Assistant Professor in the Government Degree College, Sitapur within the district of Surguja where the petitioner was also posted. It is stated that after his posting at Sitapur, on two occasions the petitioner was attached to a place called Bhusu from where he was shifted back at Sitapur and thereafter the impugned order has been passed.

It is the submission of the petitioner that the impugned order, in fact, has been passed during the ban period and since it is in the mid-session it will disturb the studies of his children. It is asserted

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

that the order is also liable to be set aside because his wife also being a Government servant, both are to be posted, as far as possible, at the same place. Against the transfer the petitioner has submitted a representation.

In the above view of the matter, the Court feels that if so advised, the petitioner may submit a fresh representation to the respondent No.2 pointing out his grievance. In case the petitioner files such a representation by 31st of January 2003, the same shall be considered and disposed of on its own merits, within a period of two weeks from receipt thereof. While considering the representation, the Authority shall also take into consideration the guidelines issued by the State Government regarding transfer and posting of both husband and wife, as far as possible, ~~may be~~ at the same place if both the husband and wife are in Government service. The Government may also consider the posting of both, the petitioner and his wife, at any place in the State.

In the interim, it is directed that if the petitioner has not already been relieved, the Authority may permit him to continue till the decision is taken on his representation.

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मामला क्रमांक W.P. 2811/02 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -५-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Anjani	With the above observations and directions, the petitioner is disposed of. Consequently, I.A.No.8494/2002 for urgent hearing also stands disposed of. Certified copy as per rules.	**Sd/-** **P.C. Naik** **Judge**